

6th January 1954]

APPENDIX VII.

(Vide item III on page 219 supra.)

Report of the Joint Select Committee on the Malabar Tenancy (Amendment) Bill, 1953 (L.A. Bill No. 12 of 1953).

To

THE HONOURABLE THE LEGISLATIVE ASSEMBLY,
MADRAS.

The Joint Select Committee appointed to consider the Malabar Tenancy (Amendment) Bill, 1953 (L.A. Bill No. 12 of 1953), has the honour to make the following report.

2. The Bill was published in English in an Extraordinary issue of the *Fort St. George Gazette*, dated the 28th March 1953, and in Malayalam in the *Fort St. George Gazette*, dated the 8th April 1953.

3. The Joint Select Committee was appointed by resolutions of the Assembly, dated 2nd April 1953, and of the Council, dated 4th April 1953.

4. The Joint Select Committee met in the Council Chamber at Fort St. George on the 1st June, 27th August, 9th and 10th October and 8th December 1953 for the consideration of the provisions of the Bill and in the Minister's Room, Government Estate, Mount Road, to-day, i.e., 26th December 1953, for passing the report.

5. The Joint Select Committee at the outset considered the necessity for enquiry in the district. The Law Minister pointed out that the amendments proposed related only to three items and there was already on record elaborate evidence on the questions and therefore there was no need to take further evidence.

6. The numerous memoranda and representations on the provisions of the Bill received from various individuals and associations were placed before the Joint Select Committee.

7. On the 27th August 1953, the Committee together with representatives of the Praja-Socialist Party and Jenmi Sangh converted itself into a kind of conference and discussed the various provisions of the Bill.

8. The more important among the changes made by the Joint Select Committee are the following:—

Clause 2.

The Committee have amended the definition of 'Rent Court' so that its functions may be performed by a Tahsildar also.

The definition of 'Ulkudi' as proposed in the Bill was confined to huts standing on dry or garden land. The Committee have made it applicable to a hut situated in a portion of any

[6th January 1954]

land in the occupation of a person who has been permitted by the person entitled to possession of such land to occupy the hut and who otherwise has no interest in such land. The definition has also been so amended as to confine only to an ulkudidār of three years' standing, the benefits given to him by this Bill.

Clause 7.

The amendment proposed in this clause was to omit ulkudi from section 9-B (relating to the fixing of fair rents for ulkudis and kudikidappus). The Committee, however, considered it necessary to retain them but made it clear that it will apply only to ulkudis for which rent is payable under the permission given to the holder thereof and that no rent shall be payable if the hut belonged to the holder of the ulkudi or kudikidappu.

Clause 14.

(Section 20 of the Act.)

The Committee agreed that the provision regarding the resumption of land by the landlord for his own maintenance [Section 14 (5)] should not be made applicable to cases where the cultivating verumpattamdar or members of his family had been continuously cultivating the land for a period of twelve years and that in considering the requirements of maintenance, regard shall be had only to primary needs. Provision has also been made to the effect that no eviction should be allowed in favour of an alienee until a lapse of twenty-four months after the date of the alienation in his favour. Section 14 of the Act has been amended accordingly.

Similar changes have also been made in section 20 of the Act.

Clause 15.

A few members of the Committee urged the need for a substantial reduction of the fair rent payable in respect of all classes of lands. After considerable discussion, it was agreed by the Committee that clause (b) of section 6 of the Act which requires the tenant to pay one half of the annual assessment payable in respect of the land might be deleted.

Clause 17.

This clause has been so amended that even outside Fort Cochin, no holder of an ulkudi or any member of his family can be evicted if he had been in possession of his ulkudi for three years unless an alternative site was given as provided in the main part of the section.

Clause 20.

This clause proposed the deletion of section 52-A. The Committee agreed to it but have inserted instead a new provision to the effect that nothing in this Act shall prevent any person in

6th January 1954]

possession of land from claiming and proving in a civil court, that a document purporting to be a usufructuary mortgage is not a mortgage but only a *kanam*.

9. The other changes made by the Committee are all shown in the Bill, as amended, which is appended to this report.

10. Some members have given dissenting minutes and they are all appended to this report.

11. The committee considers that the Bill as amended need not be republished.

M. A. MANICKAVELU NAICKER,
Chairman.

GOVERNMENT ESTATE,
MOUNT ROAD, MADRAS,
26th December 1953.

ANNEXURE.

[NOTE.—The changes made are sidelined or underlined and the portions omitted are indicated by dots..]

L.A. Bill No. 12 of 1953.

A Bill further to amend the Malabar Tenancy Act, 1929.

WHEREAS it is expedient further to amend the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930), for the purposes hereinafter appearing; it is hereby enacted as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Malabar Tenancy (Amendment) Act, 1954.

(2) It shall come into force on such date as the State Government may, by notification in the *Fort St. George Gazette*, appoint

2. *Amendment of section 3, Madras Act XIV of 1930.*—In section 3 of the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930) (hereinafter referred to as the principal Act)—

(i) in clause (f), defining “Fair rent”, for the words and figures “rent as determined in accordance with the provisions of Chapter II”, the words and figures “the rent payable in accordance with the provisions of Chapter II” shall be substituted;

(ii) clause (uu) defining “Rent Settlement Authority” shall be omitted; and in lieu thereof the following shall be inserted, namely:—

“(uu) ‘Rent Court’ means in relation to any area, the Rent Court constituted under this Act for such area, and where no Rent Court has been constituted, the Revenue Divisional Officer or the Tahsildar having jurisdiction over such area, appointed by the State Government to exercise the functions of Rent Court under this Act;”

[6th January 1954]

(iii) in clause (v) defining 'tenant', the following shall be added at the end, namely:—

"but does not include a 'mulgenidar' as defined in the Mulgeni Rent Enhancement Act, 1920 (Madras Act XIII of 1920), in the villages in the South Kanara district specified in the schedule";

(iv) for clause (vv) defining 'ulkudi' or 'kudikidappu', the following clause shall be substituted, namely:—

"(vv) (i) 'Ulkudi' means a hut in any portion of a land outside Fort Cochin in the occupation of a person who has been permitted by the person entitled to possession of such land to occupy the hut and who otherwise has no interest in such land;

(ii) 'Protected ulkudi' means an ulkudi which has been in the continuous occupation of the holder or of any member of his tarwad, tavazhi, illom, kutumba, kavaru or family for not less than three years;

(iii) 'Kudikidappu' means a hut in any portion of a land in Fort Cochin in the occupation of a person who has been permitted by the person entitled to possession of such land to occupy the hut and who otherwise has no interest in such land;"

3. General amendments to Madras Act XIV of 1930 . . .

In the principal Act, for the words "Rent Settlement Authority", wherever they occur, the words "Rent Court" and for the words "Rent Settlement Authorities" in section 54 (2) (d), the words "Rent Courts" shall be substituted.

4. Amendment of section 6, Madras Act XIV of 1930.—In section 6 of the Principal Act, the brackets and letter '(a)' at the beginning of clause (a), and clause (b) shall be omitted.

5. Amendment of section 8, Madras Act XIV of 1930.—In section 8 of the principal Act—

(i) in sub-section (2), clause (a), in the first paragraph, for the words "eleventh year," the words "twelfth year" and for the words "every fifth year", the words "every sixth year" shall be substituted;

(ii) in the same sub-section and clause, in the proviso, for the words "five years" the words "six years", and for the words "fifth year" in both the places where they occur, the words "sixth year" shall be substituted;

(iii) in the same sub-section, after clause (c), the following provisos shall be added, namely:—

"Provided that nothing contained in this sub-section shall be deemed to affect any agreement in writing, registered, between the landlord and the tenant to the effect that the tenant shall pay rent for any such land every year (commencing from the seventh year after the planting of the crop), but in every

6th January 1954]

such case the rent payable after the commencement of the Malabar Tenancy (Amendment) Act, 1954, shall not exceed one-sixth of the produce of the land for the year to which it relates:

Provided further that in the case referred to in the foregoing proviso, the assessment and local cesses referred to in clause (c) shall be paid each year by the landlord and the tenant in the same proportion in which the produce of the land is shared between them ”;

(iv) sub-section (4) shall be omitted.

6. *Amendment of section 9, Madras Act XIV of 1930.*—In section 9, clause (a), of the principal Act, after the word “municipality”, the words “or cantonment” shall be inserted.

7. *Amendment of section 9-B, Madras Act XIV of 1930.*—In section 9-B of the principal Act—

(i) for the portion beginning with the words “Notwithstanding anything contained” and ending with the words “in respect of the extent thereof”, the following shall be substituted, namely:—

“Notwithstanding anything contained in sections 5 to 9-A in the case of a protected ulkudi or a kudikidappu, if rent be payable for the site of the protected ulkudi or the kudikidappu under the permission granted for occupation, then, fair rent shall be an amount equal to twice the annual assessment payable in respect of the extent of the site”;

(ii) in the proviso, for the words “where there is a hut in the ulkudi or kudikidappu belonging to the landlord, the holder of the ulkudi or kudikidappu”, the following shall be substituted, namely:—

“where the hut does not belong to the holder of the protected ulkudi or kudikidappu, the said holder”;

(iii) after the words “for the hut” and before the words “as may be determined” the following words shall be inserted, namely:—

“as may be agreed on or in the absence of agreement.”

8. *Insertion of new section 9-BB in Madras Act XIV of 1930.*—After section 9-B of the principal Act, the following section shall be inserted, namely:—

“9-BB. *Exclusion of certain lands from liability to fair rent.*—Notwithstanding anything contained in sections 5 to 9-B, where any land included in a holding is set apart for communal purposes, and is used as such, the extent of the land so set apart shall not be taken into account when determining the fair rent of the holding in accordance with those sections.

[6th January 1954]

9. *Substitution of new sections for section 9-C in Madras Act XIV of 1930.*—For section 9-C of the principal Act, the following sections shall be substituted, namely:—

“9-C. *Rent Courts.*—(1) The State Government may, by notification in the *Fort St. George Gazette*, constitute for any area specified therein, a Rent Court which shall be presided over by an officer not below the rank of a Tahsildar for the purpose of performing the functions entrusted to a Rent Court by this Act.

(2) In hearing an application under this Act, the Rent Court shall, so far as may be, have the same powers as are vested in, and follow the same procedure as is followed by, a Court of Small Causes hearing a suit or other proceeding under the Provincial Small Cause Courts Act, 1887 (Central Act IX of 1887), subject to the modification that the Rent Court shall have the power to depute any officer of the Revenue Department to make local enquiry and inspection and to collect data and the report and the records submitted by such officer may be read as evidence in the case.

9-CC. *Determination of fair rent by Rent Court.*—If any dispute arises as to the amount of fair rent payable in respect of any land under the foregoing provisions of this Chapter, either the tenant, or, after the expiry of three years from the commencement of the Malabar Tenancy (Amendment) Act, 1954, the landlord may apply to the Rent Court for the determination of the fair rent; and on such application being made, the fair rent shall be determined by the Rent Court:

Provided that such determination shall take effect in respect of any agricultural year, only if the application is made in that year or within three months of the expiry thereof.”

10. *Amendment of section 9-D, Madras Act XIV of 1930.*—In section 9-D of the principal Act, for the words, brackets, figures and letter “under sub-section (4) of section 8 or under sub-section (1) of section 9-C”, the words, figure and letters “under section 9CC” shall be substituted.

11. *Substitution of new section for section 9-G in Madras Act XIV of 1930.*—For section 9-G of the principal Act, the following section shall be substituted, namely:—

“9-G. *Revision of fair rent.*—The fair rent determined by the Rent Court under section 9-CC shall not be liable to be revised on the application of the landlord before the expiry of a period of twelve years from the date on which such fair rent takes effect, but may for sufficient cause be reduced by the said Court on the application of the tenant.”

12. *Repeal of section 9-H, Madras Act XIV of 1930.*—Section 9-H of the principal Act shall be repealed.

6th January 1954]

13. *Amendment of section 10, Madras Act XIV of 1930.*—In Section 10 of the principal Act, for the words ‘an ulkudi,’ the words ‘a protected ulkudi’ shall be substituted.

14. *Insertion of new section 11 in Madras Act XIV of 1930.*—After section 10 of the principal Act, the following shall be inserted as section 11, namely:—

“11. *Right to prove real nature of transaction.*—Notwithstanding anything in the Indian Evidence Act, 1872 (Central Act I of 1872), or in any other law for the time being in force, any person interested in any land may claim, adduce evidence and prove that a transaction entered into on or after the 1st January 1916 and purporting to be a mortgage of that land is not in fact a mortgage, but a transaction by way of kanom, kanom kuzhikkanam, kuzhikanam, verum pattam or other lease, under which the transferee is entitled to fixity of tenure in accordance with the provisions of section 10.”

15. *Amendment of sections 14 and 20, Madras Act XIV of 1930.*—In sections 14 and 20 of the principal Act—

(1) after clause (5), the following shall be added, namely:—

“*Explanation.*—In considering requirements for maintenance, regard shall be had only to primary needs.

Exception.—Nothing in this clause shall apply to any holding which has been in the continuous occupation of the tenant or of any member of his tarwad, tavazhi, illom, kutumba, kavaru or family for not less than twelve years”.

(2) in clause (6) the word ‘*bona fide*’ occurring between the word ‘thereof’ and the words ‘for the purpose’ shall be omitted and the word ‘*bona fide*’ between the words ‘a building’ and the words “for his own residence” shall be inserted;

(3) in the second proviso—

(i) in clause (ii), for the words ‘an ulkudi’ the words ‘a protected ulkudi’ shall be substituted;

(ii) after clause (ii), the following shall be added as clause (iii), namely:—

“(iii) no person whose right to evict arises under an instrument of transfer *inter vivos* shall be entitled to sue for eviction on the ground specified in clause (5) or clause (6) until the expiry of two years from the date of the instrument.”

16. *Amendment of section 20, Madras Act XIV of 1930.*—In section 20 of the principal Act, the last proviso commencing with the words ‘Provided also’ and ending with the words ‘twelfth year thereafter’ shall be omitted.

17. *Substitution of new section for section 28, Madras Act XIV of 1930.*—For section 28 of the principal Act, the following section shall be substituted, namely:

[6th January 1954]

“28. Every cultivating tenant of a holding other than a kanamdar or customary verumpattamdar, every tenant of a commercial site who is entitled to fixity of tenure under this Act, every tenant of a kudiyruppu, every holder of a protected ulkudi and every holder of a kudikidappu shall be bound to pay to his landlord—

(a) in case fair rent has been determined under section 9-CC, such fair rent as modified in appeal, if any, under section 9-D,

(b) in case there has been no such determination, the rent agreed to by both the parties to be the fair rent payable in accordance with the provisions of sections 4 to 9-B,

(c) in case there is no such agreement, the fair rent, if any, fixed under this Act, as it stood before the commencement of the Malabar Tenancy (Amendment) Act, 1951 (Madras Act XXXIII of 1951), or

(d) in case no fair rent has been fixed as aforesaid, the rent payable according to the contract, express or implied between the parties:

Provided that in the case mentioned in clause (a), where there is a contract, the tenant shall, until the expiration of the period of contract, pay at his choice, either the contract rent or the fair rent and shall thereafter pay the fair rent.”

18. *Amendment of section 29, Madras Act XIV of 1930.*—In section 29, sub-section (2) of the principal Act, for the word ‘municipality’ in the two places where it occurs, the words ‘municipality or cantonment’ shall be substituted.

19. *Substitution of new section for section 35 in Madras Act XIV of 1930.*—For section 35 of the principal Act, the following section shall be substituted, namely:—

“35. *Landlords’ rights in relation to protected ulkudi and kudikidappu.*—In the case of a protected ulkudi or a kudikidappu, the person entitled to possession of the land in which the protected ulkudi or the kudikidappu is situate shall be entitled to provide an alternative and suitable site of equal area in any other portion of the same land or in any other land at his disposal in the same revenue village and the holder of the protected ulkudi or kudikidappu shall be bound to accept the arrangement and be entitled to receive from the person providing the alternative site the expenses reasonably required to shift to the said site.”

20. *Amendment of section 39, Madras Act XIV of 1930.*—In section 39, sub-section (1), of the principal Act, in the proviso, for the words ‘an ulkudi’ the words ‘a protected ulkudi’ shall be substituted.

6th January 1954]

21. *Repeal of section 52-A, Madras Act XIV of 1930.*—Section 52-A of the principal Act is hereby replaced.

22. *Insertion of new sections 52-C and 52-D in Madras Act XIV of 1930.*—After section 52-B of the principal Act, the following sections shall be inserted, namely:—

“ 52-C. *Surrender deeds executed by tenants previously not to affect their rights in certain cases.*—(1) Subject to the provisions of sub-section (2), any document executed by a cultivating verumpattamdar after the 28th July 1950 and before the commencement of the Malabar Tenancy (Amendment) Act 1954, purporting to affect his rights or status as tenant shall be voidable at the option of the cultivating verumpattamdar:

Provided that the landlord or his successor-in-interest has not admitted any other tenant to the possession of the land before the 28th March 1953.

(2) Any person entitled to rescission of a document under the provisions of sub-section (1) shall within three months of the commencement of the Malabar Tenancy (Amendment) Act, 1953, send a notice by registered post to the landlord demanding possession of the land. On such notice being sent, the cultivating verumpattamdar shall be entitled to be restored to possession of the land as if no such document had been executed and he shall have all the rights (including the right to dispossess any other person who has been let into possession of the land . . . on or after the 28th March 1953) of a cultivating verumpattamdar as if he had been in possession as such verumpattamdar on the date of commencement of the Malabar Tenancy (Amendment) Act, 1954, and shall become liable to restore to the landlord any money or other consideration received from him under the document.

(3) A person who has sent a notice under sub-section (2), may institute a suit for possession of the land within six months of the commencement of the Malabar Tenancy (Amendment) Act, 1954, against the landlord and any person let into possession of the land on or after the 28th March 1953. The Court shall, in such suit, on proof of the facts stated in sub-section (1) pass a decree for possession:

Provided that, if the plaintiff has received any money or other consideration under the document from the landlord, the Court shall make the execution of such decree conditional on the restoration of such money or the money equivalent of such consideration with such interest as the Court may deem just.

(4) The right conferred by sub-sections (1), (2) and (3) are personal to the cultivating verumpattamdar who executed the document and cannot be exercised by any person claiming to be such cultivating verumpattamdar's successor-in-interest as heir, assignee or otherwise:

[6th January 1954]

Provided that, if such cultivating verumpattamdar dies during the pendency of a suit instituted by him under sub-section (3) such suit may be continued by his legal representative subject to the defences available against the original plaintiff.

52-D. *Special provision for application of the Act to tenures prevailing in South Kanara district.*—If any difficulty arises in the application of the provisions of this Act as amended by the Malabar Tenancy (Amendment) Act, 1951 (Madras Act XXXIII of 1951), and the Malabar Tenancy (Amendment) Act, 1954, to the villages of South Kanara district to which this Act applies, on account of local variations between the tenures prevailing in the said villages (by whatever name such tenures may be known) and the corresponding tenures prevailing in the Malabar district, the State Government may, by notification published in the *Fort St. George Gazette*, direct that the said provisions shall apply to the aforesaid villages of South Kanara district subject to such adaptations, exceptions and modifications as may be specified in this behalf in such notification."

23. *Amendment of section 54, Madras Act XIV of 1930.*—In section 54 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The rules made under this Act shall, on publication in the *Fort St. George Gazette*, have effect as if enacted in this Act. The rules shall be placed on the table of the Legislative Assembly of the State as soon as possible after they are published and shall be subject to such modifications whether by way of repeal or amendment as the Assembly may make during the session in which they are so laid."

24. *Amendment of section 53, Madras Act XXXIII of 1951.*—In section 53 of the Malabar Tenancy (Amendment) Act, 1951 (Madras Act XXXIII of 1951)—

(i) for the words "from the commencement of this Act", the words, brackets and figures "from the commencement of the Malabar Tenancy (Amendment) Act, 1954", and for the words and figures "six agricultural years beginning with 1944-45 and ending with 1949-50", the words and figures "six agricultural years beginning with 1947-48 and ending with 1952-53" shall be substituted;

(ii) after the words "as amended by this Act", the words, brackets and figures "and the Malabar Tenancy (Amendment) Act, 1954" shall be inserted;

(iii) for the words "any arrears of rent", the words "any outstanding arrears of rent" shall be substituted.

25. *Repeal of Madras Act XXIV of 1949 in its application to the Malabar district and of sections 54 and 55 of Madras Act XXXIII of 1951.*—(1) The Madras Tenants and Ryots Protection Act, 1949 (Madras Act XXIV of 1949), in so far as it applies to the district of Malabar, the Gudalur taluk of the Nilgiri district

6th January 1954]

and the villages in the South Kanara district which are specified in the Schedule to the principal Act, and sections 54 and 55 of the Malabar Tenancy (Amendment) Act, 1951 (Madras Act XXXIII of 1951), are hereby repealed.

(2) All suits, appeals and other proceedings (other than proceedings in execution of a decree or order) which are pending at the commencement of this Act and in respect of the subject-matter of which the provisions of the Malabar Tenancy Act, 1929, are in force, shall, from and after such commencement, be disposed of in accordance with the provisions of the Malabar Tenancy Act, 1929, as amended by Madras Act XXXIII of 1951 and this Act:

Provided that in any such suit or proceeding, the court may award full costs to the plaintiff or applicant if it is satisfied that the claim made in the suit or proceeding was in accordance with the law in force at the time of the institution of such suit or proceeding.

(3) Where the execution of a decree or order stands stayed under the Madras Tenants and Ryots Protection Act, 1949, or section 54 or section 55 of the Malabar Tenancy (Amendment) Act, 1951, the tenant may, within a month after due service of notice on an application to execute such decree or order or within six months of the commencement of this Act, whichever event happens earlier, file an application to the court which passed the decree or order, to amend the decree or order on the ground that such decree or order would not have been made if the Malabar Tenancy Act, 1929, as amended by Madras Act XXXIII of 1951 and this Act were in force immediately before the passing of the decree or order. If, on such application being made, the court finds that such decree or order would not have been made if the Malabar Tenancy Act, 1929, as amended by Madras Act XXXIII of 1951 and this Act were in force immediately before the passing of the decree or order, the court shall, after receiving such additional pleadings and such further evidence as it considers just and necessary, amend the decree or order so as to be in accord with the Malabar Tenancy Act, 1929, as amended by Madras Act XXXIII of 1951 and this Act. If no such application is filed within the time allowed or if such application is filed and dismissed, the decree or order may, subject to the provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908), and the Indian Limitation Act, 1908 (Central Act IX of 1908), be executed in accordance with its tenor.

(4) The date on which any decree or order is amended under sub-section (3) shall, for the purposes of section 48 of the Code of Civil Procedure, 1908, and Article 182 of the Indian Limitation Act, 1908, be deemed to be the date of the decree or order.

R. V. KRISHNA AYYAR,

Secretary to the State Legislature.

GOVERNMENT ESTATE,
MOUNT ROAD, MADRAS,
26th December 1953.

[6th January 1954]

DISSENTING MINUTES.

I

I had suggested in an amendment to section 8, clause (1), of the principal Act, that in the case of dry lands, the fair rent shall be one-fifth of the gross produce or three times the annual assessment payable in respect thereof, whichever is higher. A general principle of three times annual assessment in all cases is unfair. Revenue assessment cannot form a correct or proper basis for fixing the fair rent of dry lands. The revenue authorities in arriving at the assessment do not differentiate between one dry crop and another. In the case of dry lands, in many places in Malabar, especially in Palghat taluk, three times the assessment will be too low in the case of food crops like ragi, cholam, kambu, blackgram, horsegram, etc., and the disparity will be most marked in the case of commercial crops such as groundnut, cotton, tobacco, sugarcane, etc. The customary practice seems to be for the tenant to pay one-fifth of the gross produce to the janmi. This customary payment is referred to by Mr. Raghavendra Row, Special Officer, in his report at page 85. I am suggesting this amendment, therefore, for the consideration of the Assembly and the Council when the Bill is placed before them.

Though I agree with many of the conclusions set out in the report, in one matter, I feel I must express my dissent to the adoption of an amendment to section 14 of the principal Act, clause (5) and section 20, clause (5), which was not proposed in the Bill brought by Government and placed before the Select Committee. This relates to the right of the janmi to evict the tenant from that part of the holding he needs bona fide for the purpose of raising crops or other produce for his own maintenance or that of any member of his family. The amendment states that this right shall not be given to the janmi when the tenant has been in possession for twelve years or more. While this may give relief in hard cases where poor tenants are in possession of one or two acres, it affects seriously the large majority of poor janmis in Malabar. It is worth remembering in this connexion, that the jenmi, even according to the definition in the Malabar Tenancy Act IV of 1939, as amended by Act XXIII of 1951, is entitled to the absolute proprietorship of the land and to deny him the right of cultivation for his maintenance is a serious and unreasonable restriction on his rights of absolute proprietorship. The State should have the same solicitude for the poor jenmi as for the poor verumpattamdar. I see from the figures given in the memorandum of the Malabar Landholders' Association, Kozhikode, that out of a total of 271,469 pattas, the number of single pattas paying below Rs. 100 comes to Rs. 2,66,000. If a poor jenmi has been forced to go out for eking his livelihood and after some years returns to his own land to cultivate the land and live on the produce, he will find himself absolutely stranded and unable to do so.

MYLAPORE,
9th December 1953.

K. BALASUBRAMANIA AYYAR.

6th January 1954]

II

I feel that the provision in the amending Bill which enables the landlord to raise the contract rent after the period of the contract when it is less than the fair rent as determined under the Act will cause great heart-burning and hardship to the tenants. A Bill intended to improve the lot of the tenants by lessening their burdens should not have the effect of adding to their present burdens. In many cases, especially in the cases of holdings under big jenmis, including kovilagams and devaswams, contract rent fixed with due regard to the money and labour spent by the tenants to make the holdings what they now are and acquiesced in by the landlords all these years would be raised severalfold if it is to be substituted by fair rent under the Act. This applies equally to wet lands and garden lands, though in the case of the latter the increase might be higher on account of the rise in the price of coconuts in the recent past. I am afraid a provision of this kind will produce adverse effects on the tenants, psychological as well as material, and has to be removed to ensure the welfare and the contentment of the tenants for whose benefit the Act is sought to be amended. There is also another important fact to be remembered. Government during the early stages of their deliberations which led to the enactment of Act XXXIII of 1951 placed the definite proposal before a conference of representative men held at Kozhikode and Madras that the amendment would provide for the payment by the tenants of fair rent or contract rent *whichever is less* and the failure to incorporate that proposal in the amending Act was quite against the hopes and expectations raised in the minds of the tenants. This was one of the points on which there was all-round opposition to the amending Act of 1951. It is, therefore, quite necessary that the present amending Act should not repeat the mistake of the last amending Act. I would, therefore, urge that section 28 should be so amended as to provide for the payment by the tenant of fair rent or contract rent, whichever is less. I had provided for this point in my Bill for amending the Malabar Tenancy Act of which I gave notice as early as 30th May 1952. Another point on which I disagree with the majority view of the Select Committee is with reference to the distinction made between sub-clause (5) and sub-clause (6) of clauses 14 and 20 of the Act in the matter of giving fixity to tenants who have been in possession of the land for twelve years and more. The scheme of the Act does not make any distinction between sub-clauses (5) and ~~(6)~~ as is illustrated by section 40 (2) under which a melcharthdar is denied the right of claiming possession on grounds 5 and 6. Again on the healthy

[6th January 1954]

principle contained in section 40 (2), I would also urge that the right of eviction granted to a landlord under sub-sections (5) and (6) of sections 14 and 20 should not be available to his transferee as the landlord can easily circumvent the provisions regarding fixity given to the tenants by the Act by making transfers in favour of his dependants or persons interested in harassing the tenant who might unlike the landlord satisfy the requirement of the Act regarding primary need for eviction.

TELLICHERRY,
13th December 1953.

M. SEETHI.

III

The tenancy problem in Malabar should not be satisfactorily solved unless the main principles of law legislation are borne in mind. A tenant requires fixity of tenure so that the land to which he is so much attached may be developed and made to yield more. A fair rent should be fixed for each holding so that the cultivator may enjoy a fair share of the produce of his labours. The tenant wants the land which he cultivates to be regarded as his own, together with all the incidents of ownership subject only to the liability to pay fair rent to the landlord. Any legislation which ignores these fundamental principles cannot satisfy the tenants.

The proposal now is that a cultivating verumpattamdar who has been continuously cultivating the land for a period of twelve years cannot be evicted from his holding for the personal cultivation of the landlord and that a tenant who has been cultivating the land for a lesser period can be evicted for the primary needs of the landlord. This will be regarded as a half-hearted measure. It will actually benefit only a small percentage of landlords. It cannot be reckoned as being helpful either to those whom it is intended to protect or to those on whom an advantage is sought to be conferred. A cultivating verumpattamdar should be given fixity of tenure regardless of the period of his cultivation. This may, however, lead to some hardship in the case of small landholders who want to resume the land for their personal cultivation. It is, however, a choice of evils as to whether a small landholder should be deprived of the right to resume possession of his land or a still poorer tenant should suffer by reason of the eviction. It is necessary to prevent the hardship that may be caused to a poor landlord by depriving him of the right to resume his land for his personal cultivation in cases where the tenant is in enjoyment of large holdings. On grounds of social justice a limit may be prescribed in respect of the holdings both of the landlords and of the tenants. There are difficulties in the way, but they must be faced and solved if there is to be contentment in the land.

The landlord should be assumed of a fair rent payable in kind at the option of the landlord so that both the landlord and the tenant may have the benefits as well as the disadvantages of market fluctuations. A sort of partnership is to be established

6th January 1954]

between the landlord and the tenant, so that both of them may be benefited by increased production. Failure to pay the fair rent should entail forfeiture of tenancy. Instead of prescribing rigid rules it is better to lay down elastic principles which may be applied by the Tribunal in determining fair rent in each case. The calculation of fair rent in the case of punjakoles and dry lands require revision. Fair rent cannot be arbitrarily fixed on the basis of assessment but must depend on the produce of the land. The cultivation expenses for each holding should be left to be decided by the Tribunal.

The question of ulkudis is a problem created by the Amendment Act of 1951. There are no large-scale evictions of ulkudi dwellers in Malabar. There is really therefore no need to make them tenure-holders and introduce further complications. Ulkudidars are only licensees allowed to live in huts put up in garden lands and cannot be entitled to permanent occupancy rights. The original provision in the Bill was that ulkudidars can be evicted on three years' notice being given to them. Now the proposal is to give fixity of tenure to those who were in occupation thereof for three years. There is neither equity nor any principle involved in this proviso.

The occupants of ulkudis are now sought to be given higher rights even than tenants. A tenant may be evicted under some circumstances but an ulkudidar cannot be ejected from his hut, although he may commit acts of waste or be a source of nuisance to others. If the hut belongs to the holder of the ulkudi he need not even pay rent.

MADRAS,
17th December 1953.

N. GOPALA MENON.

IV

While welcoming amendments to the Malabar Tenancy Act I am constrained to state that the present amending Bill as it emerges from the Select Committee is far from being satisfactory or complete. In appending this note of dissent to the Report of the Select Committee, on the Bill, I very much hope that the arguments put forward by me to safeguard the interests of the tiller of the soil would be appreciated.

The following extracts from Mr. William Logan's "Malabar" (1951 Reprint) would throw considerable light on the relationship between the "jenmi" and the "kudiyan" in Malabar:—

"The essential difference between a Roman dominus and a Malayalee jenmi was unfortunately not perceived or not understood at the commencement of the British administration. The jenmi has by the action of the Civil Courts been virtually converted into a dominus and the result on the workers, the cultivators, has been and is very deplorable"—Page 604.

"What he (the jenmi) pledged was evidently not the soil itself but only his share of its produce so far as that went . . . But the Civil Courts acting on the idea that the jenmi was a

[6th January 1954]

dominus and as such entitled to take what he could get out of the land, viewed his pledges as pledges of the soil itself, and in this way they have almost *completely upset the native system of customary sharing of the produce*”—Page 605.

“ Custom, not competition, adjudged the shares into which the produce was to be divided. The grant of freedom to a community thus organized meant (as soon as the custom had given way) freedom for the strong to oppress the weak; freedom for the *newly created proprietor* (the present day jenmi) to take an ever increasing portion of the share of the nett produce left over after paying the government dues. What wonder then, that the **DRONES IN THE HIVE HAVE PROSPERED AND GROWN FAT OR THAT THE WORKING BEES HAVE BECOME FAMISHED AND LEAN!** ”—Page 683.

The learned author was of the view that customary relations were disturbed in favour of the jenmi after the British rule and the kudiyan (tenant) who had a very stable right in the soil under his cultivation found his position insecure only thereafter. All the world over exclusive possession and occupation resulted in private ownership of property. The origin of property in Malabar must have been only the same. To cover it up and to maintain that the whole of Malabar was gifted to the jenmis by the mythical hero Parasurama who is supposed to have redeemed the land from the sea, without any basis for such a supposition, was one among the several clever manipulations the lazy men of the day indulged in to hoodwink the ardent worker. “ Sages who knew former times . . . pronounce cultivated land to be the property of him who cut away the wood or who cleared and tilled it ”, observes Manu. The Rajas, Devasthanams and Namboodiris of Malabar who were the jenmis were prevented from cultivation or clearing of jungles on account of their duties and their inclinations. On the other hand the “ Cheramas ” (the children of CHERA—of Kerala—as the term means) and the “ Kanakkars ” were in flesh and blood on the soil clearing it or tilling it so that one cannot easily wipe them out as any other than the original proprietors of land in Malabar. It may not be far from being true to maintain that the present day jenmi was at one time only a guardian or a kind of a watchman appointed by the tillers of the soil or chosen by them to protect them from possible aggression and who was paid for the service a remuneration in the form of a customary share in the produce without giving them any right whatsoever in the land itself. British administrators and the civil courts which functioned under the British rule failed to perceive this peculiar position of a jenmi in Malabar and very wrongly declared him to be the absolute owner of the land. *Agitation for tenancy reform in Malabar has been an agitation to rectify this wrong done by the British to the true proprietor of the soil, the “ kudiyan ” of Malabar, the actual cultivator, who now stands expropriated.*

Mr. William Logan reported in 1881 that the only person interested in the soil to whom the Government should look was the actual cultivator so that it was in the interest of the public that eviction should be prevented. His report did not find favour

6th January 1954]

with Government who referred the matter to a special commission which was presided over by Sir T. Madhava Rao. The commission after a detailed investigation submitted its report to Government in 1884 adopting the view of Mr. Logan and strongly recommending fixity of tenure to the tiller of the soil. The then Chief Justice of Madras blew up the report opposing any measure providing for fixity of tenure. Thereupon Government constituted another Committee hoping that they would suggest a more "agreeable" measure. The Committee which was presided over by Mr. Master submitted its report recommending payment of compensation for improvements on eviction which resulted in the "Malabar Compensation for Tenants Improvements Act of 1887." The Improvements Act did not have the desired effect of preventing capricious eviction of tenants from holdings. Discontent remained and agitation for fresh legislation continued. In 1900 the then Collector of Malabar who was convinced about the "melcharth" evil in Malabar recommended enactment of the "Melcharth Bill" to prevent "melcharth" and consequent eviction. Government refused to act on the recommendation. In 1915 Mr. Charles Innes, who was then the Collector of Malabar, realizing the extreme difficulties under which the tenants were groaning submitted a report to Government requesting for immediate steps to remedy the evils of insecurity of tenure and rack-renting in Malabar. He observed that it was a matter of economic necessity to give fixity of tenure to the tenant as the extension of cultivation would be greatly accelerated if the tenants who reclaimed the lands were given complete protection against eviction. Nothing was done by Government and in 1921 the Mappilla Rebellion which is supposed to be the tenants' revolt having taken a different turn broke out. In 1928 the Raghaviah Committee which was entrusted with the duty of going into the question of further tenancy reform for Malabar submitted a detailed report and the Malabar Tenancy Act XIV of 1930 followed. It was not a comprehensive piece of legislation. Evictions were made possible in several cases and harassment of the tenant continued with greater vigour. There was complete discontentment on the side of the tenants and in 1939 Government constituted the Kuttikrishna Menon Committee to investigate and report on certain points relating to land tenure in Malabar including the necessity to provide fixity of tenure to the tenure-holders. The Committee after a detailed investigation submitted its report and recommendations in 1940. The majority of the members of the Committee came to the conclusion that the farmer was the original owner of the soil. They recommended the grant of fixity of tenure for all classes of lands except lands transferred for felling timber, fugitive cultivation, etc., prevent evasion of legislation which was so common the Committee also recommended the grant of fixity of tenure to any mortgagee whose mortgage is shown to have been granted in place of tenure. On the question of rent the Committee recommended that no tenant should be compelled to pay more than the fair rent. Nothing turned upon this report except that a Special Officer was deputed in 1947 for the investigation of land tenures in Malabar on the recommendations of the Malabar

[6th January 1954]

Tenancy Committee. The said Special Officer, Sri N. Raghavendra Rao, submitted his report in due course and the matter ended there. In 1951 Government realizing the immediate necessity for betterment of the conditions of the tenants passed the Malabar Tenancy (Amendment) Act XXXIII of 1951 which came into force on 15th March 1952. The Act was found to be defective in several respects. The provisions made for eviction, for fixation of fair rent and for settlement of what was called a record-of-rights found no favour with the people of Malabar and agitation was more intense than before to revise the whole enactment bearing in mind the absolute necessity to grant unqualified fixity of tenure to the tiller of the soil securing only a fair rent to the landlord. The Act instead of providing fixity of tenure for the tenant enabled eviction in more cases than before. By sections 14 and 20 eviction on account of need to extend a temple or *other place* on a certificate from the Collector of the district to the effect that the tenant's holding is needed for the purpose was made possible. The scope for eviction on the ground that the holding was needed by any member of the landlord's family was enlarged by adding a wide explanation to the term "member of the family." Provisions were made for the protection of *ulkudis* and *kudikidappus* but those provisions were made applicable only to a negligible area, viz., Fort Cochin, while there was a crying need to make them applicable to the whole of Malabar. Huts and not houses were protected as *ulkudis*. Melcharth was provided for and evils remained. The Rent Settlement Authority which functioned under the Act was an unwanted nuisance to the cultivator and a drain on the State's funds. There was a clamour for further legislation and it was in this background that the present Bill was brought forward.

Instead of improving upon the definition of "*ulkudi*" and "*kudikidappu*" the present amending Bill has mutilated the original definition and it would appear as though the *ulkudi* tenant has to cling on to the superstructure of his hut and not stay on the site and the appurtenant land so absolutely needed for his residence. While the amending Act of 1951 defined "*ulkudi*" as *any portion of a garden land* the present Bill seeks to restrict the definition to *a hut in any portion of a garden land or dry land* so that once the hut falls down the *ulkudi* ceases. It is my view that the definition should remain as it is in the amending Act of 1951 with the following additions to it:—

After the words "*garden land*" appearing in the definition, the words "*or wet and dry land*" should be added and after the word "*hut*" in the same definition the words "*or house*" should be added. After such additions the provisions relating to *ulkudis* and *kudikidappus* may be extended forthwith to the whole of the Malabar district. There is no necessity to disturb the existing definition except to the extent suggested herein and any further disturbance to the detriment of the poor will foment further trouble. The present Bill is markedly retrograde compared to the amending Act of 1951 in the above respect.

6th January 1954]

My next suggestion will be to repeal the whole of sections 14 and 20 of the Malabar Tenancy Act as they now stand. Section 10 of the Act gives fixity of tenure to the tenure-holder while sections 14 and 20 permit eviction on numerous grounds. What is given by the right hand is taken away by the left. Once it is understood that the Malayalee landlord had only an interest in a share of the produce and that he had no title whatsoever to the land, the absolute necessity for the abrogation of sections 14 and 20 of the Act becomes very evident. The tiller of the soil is its proprietor except when he is a paid-agricultural labourer. That the tiller of the soil was the owner of it in Malabar has also been revealed by the investigations of eminent men in the field. The landlord was only benefiting under a customary sharing of the produce without any title to the soil. *His customary right to a share of the produce alone needs protection* to maintain the equilibrium. This is well protected as there are ample provisions in the Act now itself providing for security of rent to the landlord. If the rent is kept in arrear, section 41 of the Act provides for a charge on the interest of the tenant and the charge can be enforced by bringing to sale the tenant's rights through Court. If a landlord wants the tenant's land for himself, instead of paying value of improvements through Court, leave him to purchase the tenant's right in the open market if the tenant chooses to sell. The necessity to give fixity of tenure to the tenant was recognized and recommended for by almost every committee and individual appointed for the purpose by Government from 1881 up to the present day. It will be therefore unsound to ignore the consensus of expert opinion on the subject and bring out an Act to please the richer people of the realm alone.

MADRAS,

25th December 1953.

A. APPU.

V

While I am in general agreement with the Bill as piloted by the Hon'ble Minister for Law, I wish to add the following:—

(1) Wherever the words "Rent Court" occur, the words "Civil Court" shall be substituted in the Act.

(2) In the matter of the rent payable by the tenants to the landlords, "fair rent or contract rent, whichever is less" shall be imported in the Acts.

26th December 1953.

V. R. NAGARAJAN.

VI

There are certain basic facts underlying any attempt to amend the Malabar Tenancy Act:

(i) the existing Act, even as amended by the 1951 Act has been found to be unsatisfactory in many important aspects and has provoked profound discontent among the agricultural classes of Malabar;

[6th January 1954]

(ii) there are significant features about Malabar land tenure which make the problem different from measures regulating landlord-tenant relationships in other parts of the State;

(iii) it is in consonance with democratic principles and the peculiarities of the case that the representatives from Malabar should have the predominant voice in determining the changes required suitably to the wishes of the Malabar people who, ultimately, have the right to determine this issue.

The vital concern and interest in the matter of the amending Bill for the people of Malabar is best respected by the representatives of the various affected interests being heard and given the virtual right to decide upon the necessary amendments. A conference of Malabar M.L.As. and M.L.Cs. and M.Ps. would be the best conceivable method by which a formula for amendment could be forged. Indeed in the earlier discussions of the Select Committee, even the Government members informally agreed to a conference as sketched above to be convened or attended by the Minister for Law and to be held at Kozhikode. The propriety of consulting leading men from Malabar belonging to political parties not represented in the Select Committee was more or less accepted when Sri Kelappan and Sri Govinda Menon were specially invited for the Select Committee meeting and the Select Committee converted itself into a kind of informal conference. Although Government members coquetted with the idea, they did not pursue it seriously. No conference was held, no agreed formula of Malabar Members of the Legislature was sought and the Select Committee proceeded with its deliberations and produced certain results not altogether happy nor even indicative of an awareness to the realities of the Malabar agrarian problem.

Technically speaking and approaching the whole question in a narrow legalistic manner, only those amendments to the Malabar Tenancy Act which are touched upon by the amending Bill, could be considered by the Select Committee. Indeed the Government measure is so scrappy and inadequate and omits to deal with the major issues involved in the problem that the containment of the possible changes to be brought about by the Select Committee within those limits would be foredoomed to failure. We, among others, had therefore raised this question at the earliest stages of the Committee's meetings and had demanded of the Chairman and the Chief Minister that the entire Parent Act must be available for discussion and change. This had also been more or less agreed to by the Chief Minister at the committee meetings provided some kind of unanimity existed on the proposals for amendment among the members from Malabar. In the later discussions, however, many of the important amendments of sections not covered by the Bill were not considered, with the result that the amplitude of the changes sought to be brought about by members like us was not available; the result was obviously unsatisfactory from our point of view. Unless the entire Parent Act is thrown open for discussion, change and amendment, the real demands of the Malabar tenantry will hardly be met.

6th January 1954]

For the above reasons, we broadly express our dissent to the procedure adopted at the Select Committee meetings in regard to the scope of the discussions and the failure to have consultations with the representatives of various interests on land in Malabar and the Kisan organizations and also the failure to hold enquiries in the district regarding the needs and grievances of the ryots in Malabar bearing on the question of Tenancy Reform.

While we are convinced that only a reorientation of agrarian policy based on the motto "land for the tiller" conformably to the Constitution (and not mere amendments to an outworn statute which postulates the permanent existence of landlordism and seeks only to reduce the friction between landlord and tenant) leading to a bold new legislation will really answer the needs of the situation; yet, at least as a temporary palliative and as a step in the right direction, substantial changes in the key provisions of the existing Tenancy Act might be very desirable. But we have been disappointed.

In regard to eviction, some general discussion took place, but the ultimate decision has not been very satisfactory. Complete immunity from eviction should be conferred on the cultivating tenant except in respect of the extent he has over an optimum size of holding, say, 5 acres. There should be a distinction between petty landlords (now large in numbers) and the big landlords and similarly there should be a clear difference drawn between the ordinary, average tenant who is principally an agriculturist and those who are very big tenants and have large extents under them (oftentimes as intermediaries) and have some lucrative non-agricultural vocation to boot. When society is complicated, complicated patterns of law to deal justly with categories must also be promulgated.

Dealing with fair rents, the Select Committee's conclusions have not been very agreeable in the light of the demands of the ryots of Malabar. Where the contract rent is different from the fair rent, the rent which is to be payable must be the lessor of the two—this is an agitation and a demand universally approved in Malabar. The various reasons in support of this demand urged at the meeting were not acceded to, probably because not all the non-Malabar members could not appreciate the feelings of the people of Malabar in this regard. Those reasons are briefly as follows:—

(i) Landlords have not clamoured for increased rentals but it is the tenants who have asked for reduction in the past. It is the weaker party, the tenantry, who has to be given protection in all legislation of this character, and not the stronger party, the landlords. The latter could, in equity, be tied down to their contract. There is thus no justification, historically speaking, to increase the rent over the contract rent; it will be like an unexpected boon to landlords if, under the guise of fixing fair rents, they are given a sudden increase;

[6th January 1954]

(ii) that this is the effect of fair-rent fixation according to the present formula, is particularly obvious to those who are familiar with conditions in garden lands of Malabar. Where a tenant pays Rs. 100 now for a garden, the application of the fair-rent principle would result in its being multiplied several times; and in certain cases he may have to pay even a thousand rupees in the place of a hundred. And remember, garden lands are by far, the main kind of agricultural land in Malabar; most often the improvements on those garden lands are made by the cultivating tenant at great expense and after hard toil for years, since the land, to start with, was just waste;

(iii) this fact was half conceded even by the knowledgeable Law Minister of the previous Government. In the Bill to amend the Malabar Tenancy Act brought in 1950, this provision now demanded by us had been included. Even the present Law Minister must be conscious about it and that is why he is seeking to put a clog, though nugatory, on the landlord's right to get the fair-rent fixed only at the end of three years from the date of this Act. Even the benefit in the existing Act, of spreading over the increase in rent (consequent on the fixation of fair-rent) through a period of fifteen years is now sought to be removed. The present move of Government without acceding to the demand "contract rent or fair rent whichever is less" will be an unkind cut to the tenants, but an unsought for blessing to the landlord;

(iv) the impact of the fair-rent provisions without the safeguarding cause suggested above is so ruinous to the tenants that all political parties and Kisan Organizations working in Malabar have unanimously supported the "whichever is less" principle. It is unfortunate that Government's sense of justice does not enable it to see the justice in this demand.

Fugitive cultivation (punam) is an extensive practice for the poorer ryots and landless agriculturists of Malabar. This is an arduous kind of cultivation in the hills and jungles. We demand, as suggested by the Kuttikrishna Menon Committee that the provisions regarding fair-rents for the dry lands (twice the land revenue) be extended to fugitive cultivations.

The *modus operandi* for fixing fair-rents is, according to the amending Bill, to be rent courts presided over by Revenue Divisional Officers. Faith in popular representatives would take us to panchayat boards as the best Tribunals for fixing fair rents as they have the requisite knowledge of the local conditions and proceedings will be cheap for the parties. Whenever there are no panchayat courts, a Three-man Tribunal representing tenants, representing landlords and the third a Government Officer would take that place. Right of appeal to the District Munsifs will correct perverse findings, if any, by panchayats boards. The next best is the civil courts. There are about twenty courts in Malabar and so easy accessibility for ryots. Revenue Divisional Officers are few and far between. The cost of legal service in the munsif's courts is much less than before the Revenue Divisional Officers. The competency to deal with civil law is next to

6th January 1954]

nothing for the Revenue Divisional Officer. Ultimately the Revenue Divisional Officer will simply okay the Revenue Inspector's report. Thus the Revenue Inspector of the circle will be the arbiter of fair-rents, in the last analysis. What with numerous kinds of work of a miscellaneous sort allotted to the Revenue Divisional Officers, they will hardly find time for the comparatively less important work (from their point of view) of fair-rent fixation. Delay in civil courts can be eliminated by prescribing special procedure. The cost of commission batta can be reduced by having a panel of Commissioners and other suitable regulations. On the whole courts with the Revenue Divisional Officers as Judges are an unwholesome machinery for fair-rent fixation. We press for panchayat boards being made rent courts failing which District Munsifs may be made rent courts.

We endorse the suggestion made at the Select Committee that restrictions must be put upon landlords attempting to circumvent the provisions regarding non-evictability by transferring lands in the name of dependents who might be seemingly needy. We also endorse and commend for consideration by the Legislature the amendments proposed by the Malabar Kisan Sangham and those contained in the Malabar Agrarian Relations Bill introduced by one of us.

Regarding the fixation of fair-rents for wet lands, a controversial question arises regarding the expenses of cultivation. Under the existing provision, 22 paras of paddy have been provisionally fixed. But considerable agitation has been carried on, based upon actual facts regarding the inadequacy of this figure. As a matter of fact, as early as 1947 the K.P.C.C. Sub-Committee on Land Reform recommended 25 paras as the expenses required per acre. This is the minimum. In actual practice, the North Malabar fields have been found to require considerably more; in certain cases going up to 40 paras per acre. A reasonable *via media* would be 30 paras per acre which we commend for acceptance by the legislature.

Fair-rents of pepper gardens, as fixed by the majority view of the Select Committee elicits our dissent. In all these cases, dry, infertile lands are leased and the entire pepper vines are planted up by the tenant. Under the existing provisions, in respect of tenants' vines in garden lands, one-eighth of the produce is the fair-rent; dry lands being far inferior to garden lands, the fair-rent must be a lesser proportion, certainly not more than one-eighth. So we suggest that one-tenth of the produce shall be the fair-rent.

In regard to arrears of rent we suggest that a payment of nothing more than two years' rent should be deemed to be a statutory discharge of all arrears of rent. The Madras Agriculturists' Relief Act, 1938, provided likewise. It is common knowledge the agriculturists of Malabar are now more sunk in indebtedness than even in 1938, thanks to continued failure of seasonal rains during the past several years. A six-year deposit within one

[6th January 1954]

year will be so heavy a burden on the ryot as to amount to a denial of the benefit of wiping up of arrears; and if arrears exist eviction will follow. Thus, if our recommendation of a two-years' deposit were not accepted even the provisions restricting evictions will become futile. The calamity consequent on the insistence of a six-years' deposit would be so serious and widespread that even the other benefit, conferred by the amendments would vanish.

The deletion of section 52-A would be catastrophe. The need for re-opening transactions contemplated by that section still remains, as landlords have been circumventing tenancy legislation by converting what in fact and substance is a lease into a mortgage to facilitate eviction. The mere fact that the Rent Settlement Authorities are to be abolished is no excuse for taking away the substantive right which can be adjudicated upon hereafter by the substitute authority created, viz., rent courts.

With the above observations we conclude our minute of dissent.

Madras,
26th December 1953.

V. R. KRISHNA AYYAR,
T. C. NARAYANAN NAMBIAR.

VII

I agree to the above dissent so far as it relates to the question of 'fair-rent'. At least, a limit should be placed on the increase, say, about 20 per cent.

26th December 1953.

K. BASHYAM.

வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS